ested in the result of the suit, as being the beneficial owners of the property involved, and hence should have been made parties to the proceeding. *McIlroy* v. *Allsop*, 45 Miss. 365; *Cotton* v. *Coit*, 88 Tex. 414, 31 S. W. 106. And the statute governing would seem to include equitable owners in the class of parties interested. *Atkins* v. *Billings*, 72 Ill. 597; *Meek* v. *Spracher*, 87 Va. 162, 12 S. E. 397. For the trustees can hardly have more than legal title to the life estate, and hence cannot be considered sole parties in interest, to the exclusion of the present petitioners. *Luguire* v. *Lee*, 121 Ga. 624, 49 S. E. 834; *Brown* v. *Richter*, 25 App. Div. 239, 49 N. Y. Supp. 368. On the question as to the contingent devisees, there is more basis for the position of the court on the authorities. *Barbour* v. *Whitlock*, 4 T. B. Mon. (Ky.) 180; *Baylor* v. *Dejarnette*, 13 Gratt. (Va.) 152. *Contra*, *McDonald* v. *Bayard Savings Bank*, 123 Iowa 413, 98 N. W. 1025.

ESTOPPEL — SILENCE — REPRESENTATION OF LAW. — The assignee of a mortgage met the mortgagor before time for redemption had expired. The mortgagor made it clear to the assignee that he would redeem, and that he believed the time for redemption had been extended by reason of pending litigation concerning the mortgaged premises. The assignee, knowing that the litigation did not extend the time, said, "Yes," without further comment. The mortgagor acted upon his belief as expressed. *Held*, that the assignee is estopped to deny that time for redemption had been extended. *Fenderson* v. *Fenderson*, 102 Atl. 69 (Me.).

It is well settled that mere silence, a failure to assert one's rights, may give rise to an equitable estoppel. *Pickard* v. *Sears*, 6 A. & E. 469; *Main v. Brown*, 56 Conn. 345, 15 Atl. 743. See 2 POMEROY, EQUITY JURISPRUDENCE, 3 ed., § 818; BIGELOW, ESTOPPEL, 6 ed., 648. See also 30 HARV. L. REV. 647. An intent to mislead or defraud is not necessary to an estoppel. *Rogers* v. *Portland & Brunswick St. Ry.*, 100 Me. 86, 60 Atl. 713. It is generally stated as the settled rule that estoppel cannot be founded on a misrepresentation of law. *Mason* v. *Harpers Ferry Bridge Co.*, 28 W. Va. 639; *Whitwell* v. *Winslow*, 134 Mass. 343. The basis of this rule is either that everyone is presumed to know the law, or that a statement of law can be only an opinion. See EWART, ESTOPPEL, 72 *et seq.* However, an exception to the rule is recognized when the person making the statement is in a particularly good positon to know the law. *Seward* v. *Johnson*, 65 Mo. 102. *A fortiori*, a further exception to the general rule seems proper where, as in this case, the misrepresentation by a person who knows the law is made to a person clearly not knowing the law. A presumption of knowledge where there is known ignorance is unjustified. A statement of law should not be called an opinion when made and acted upon as a fact. See EWART, ESTOPPEL, 72 *et seq.*

EVIDENCE — PAROL EVIDENCE — ADMISSIBILITY OF EVIDENCE AS TO A COLLATERAL AGREEMENT CONCERNING A NEGOTIABLE INSTRUMENT. — Indorsee sued the indorser on a negotiable note. The defendant sought to put in evidence an agreement made by the indorsee to stamp above the indorsement, "Without recourse." *Held*, that the evidence was not admissible to contradict the contract as evidenced by the blank indorsement. *Lake Harriet State Bank*, v. *Miller*, 164 N. W. 989 (Minn.).

There seem to be four views as to when extrinsic evidence of a collateral agreement is admissible, in a suit between the parties to a negotiable instrument. One view would allow it only when recovery would result in circuity of action. See 2 AMES, CASES ON BILLS AND NOTES, 804. Another view would not admit extrinsic evidence when it is offered to change one of the express terms of the instrument, but would admit it when it is offered to change one of the implied terms, *i.e.*, a term attached to the instrument by operation of

law. *Coughenour* v. *Suhre*, 71 Pa. 462. See 4 WIGMORE, EVIDENCE, §§ 2443–2445. The third view applies the rule to negotiable instruments that is usually applied to collateral agreements concerning other writings, and admits extrinsic evidence on the theory that it does not alter the instrument but shows that the instrument was never enforceable. *Burke* v. *Dulaney*, 153 U. S. 228. The fourth view differs from the third in that it regards the instrument as enforceable but subject to the defense arising from the collateral agreement, extrinsic evidence of this defense being admitted as is extrinsic evidence of the defense, fraud. *Cf. American National Bank* v. *Cruger*, 44 S. W. 1057 (Tex. Civ. App.). The principal case illustrates the hardship resulting from strict conformation to the parol-evidence rule.

EVIDENCE — SIMILAR FACTS AND OCCURRENCES — POSSESSION OF GOODS OTHER THAN THOSE STOLEN. — The two defendants were indicted for larceny of jewelry to the value of $5,000. Evidence was admitted that, when arrested two months after the larceny charged, the defendants had in their possession jewelry to the value of $2,300, but none of the articles covered by the indictment. It appeared that defendants had no visible means of support. *Held*, that the evidence was properly admitted. *Commonwealth* v. *Coyne*, 117 N. E. 337 (Mass.).

Any evidence having probative value is admissible, unless it falls within some rule of exclusion. See 1 WIGMORE, EVIDENCE, § 10. See also J. B. Thayer, "Presumptions and the Law of Evidence," 3 HARV. L. REV. 141, 144. Admissibility is usually a question not of the sufficiency of the evidence, but of its fitness to be considered. See *Commonwealth* v. *Jeffries*, 89 Mass. 548, 566. See also 1 WIGMORE, EVIDENCE, §§ 28, 29. Logically relevant evidence is sometimes excluded, if its value is only remote. See MCKELVEY, EVIDENCE, 128. The value of the evidence in the principal case, and consequently its admissibility, depends somewhat on the financial condition of the defendant. Under the circumstances shown, it would seem to be admissible. See *Commonwealth* v. *Mulrey*, 170 Mass. 103, 110, 111, 49 N. E. 91, 94. This evidence does not fall within the rule of exclusion as creating unfair prejudice. See 1 WIGMORE, EVIDENCE, § 193. The decision seems to have the support of authority as well as principle. *Carr* v. *State*, 84 Ga. 250, 10 S. E. 626. *Cf. Commonwealth* v. *Montgomery*, 11 Met. (Mass.) 534. But *cf. United States* v. *Williams*, 168 U. S. 382, 396. See 1 WIGMORE, EVIDENCE, § 154, n.

EXTRADITION — INTERSTATE EXTRADITION UNDER THE UNITED STATES CONSTITUTION — FUGITIVE FROM JUSTICE: PRISONER BROUGHT FROM REQUISITIONING STATE BY EXTRADITION PROCEEDINGS. — Petitioner was arrested in Texas, charged with a crime against that state. Before trial, he was extradited to California on requisition from the governor. The California charge was not pressed; and the governor of California, acting on requisition from Texas, issued a warrant to extradite him to Texas. He applies for a writ of *habeas corpus*. *Held*, that the prisoner be discharged. *In re Whittington*, 167 Pac. 404 (Cal.).

Since there is no state statute covering the question, extradition is governed solely by the provisions of the federal constitution. *People ex rel. Corkran* v. *Hyatt*, 172 N. Y. 176, 64 N. E. 825; *In re Kopel*, 148 Fed. 505. The Constitution provides only for the surrender of persons who "flee from justice." U. S. CONST. Art. IV, § 2. *State* v. *Hall*, 115 N. C. 811, 20 S. E. 729; *People ex rel. Genna* v. *McLaughlin*, 145 App. Div. 513, 130 N. Y. Supp. 458. It is the function of the executive to deal with the problems of extradition, and hence to determine whether the person requisitioned is a fugitive. *Ex parte Reggel*, 114 U. S. 642; *Katyuga* v. *Cosgrove*, 67 N. J. L. 213, 50 Atl. 679. But the courts have jurisdiction to pass on the validity of the imprisonment, and the finding